testing on 0.1% of the subject fleet each year.

(6) The SIP submittal is deficient in providing adopted regulations and procedures for each test type.

Major deficiencies must be corrected with regard to sections, 51.351, Enhanced I/M Performance Standard, 51.353, Network Type and Program Evaluation, 51,354, Adequate Tools and Resources, 51.357, Test Procedures and Standards, and 51.360, Motorist Compliance Enforcement.

In addition, the District's submittal does not meet a number of miscellaneous requirements of the I/M rule. Specifically sections: 51.350, Applicability, 51.355, Testing Frequency and Convenience, 51.356, Vehicle Coverage, 51.358, Test Equipment, 51.359, Quality Control, 51.360 Waivers and Compliance via Diagnostic Inspection, 51.362 Motorist Compliance Enforcement Program Oversight, 51.363, Quality Assurance, 51.364 Enforcement against Contractors, Stations and Inspectors, 51.365 Data Collection, 51.366, Data Analysis and Reporting, 51.367 Inspection Training and Licensing or Certification, 51.368, Public Information and Consumer Protection, 51.369, Improving Repair Technician Effectiveness, 51.370, Compliance with Recall Notices, 51.371, On-Road Testing, and 51.372, State Implementation Plan Transmittals. These deficiencies, described in more detail above in the section by section analysis, must be corrected before EPA could provide full approval for the District's I/M SIP revision.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. Sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

EPA's disapproval of the District's request under Section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements and impose any new Federal requirements.

Under Section 202 of the Unfunded Mandate Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local or tribal governments in aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the disapproval action proposed does not include a Federal mandate that may result in estimated cost of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action maintains pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional cost to State, local, or tribal governments, or to the private sector, result from this action.

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule [is/is not] a ''major rule'' as defined by section 804(2) of the APA as amended.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation.

The Administrator's decision to approve or disapprove the District's enhanced I/M SIP revision will be based on whether it meets the requirements of section 110(a)(2) (A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 19, 1996.

Michael M. McCabe,

Regional Administrator, Region III.

[FR Doc. 96–25983 Filed 10–9–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[PA036–4016, PA036–4017; FRL–5633–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation Request, Maintenance Plan, and Emissions Inventory for the Reading Ozone Nonattainment Area; Policy Change for Ozone Redesignations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request for the Reading ozone nonattainment area, and State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania, contingent upon Pennsylvania's correction of all deficiencies contained in the request and SIP revision. The revisions consist of a maintenance plan and 1990 base year inventories for the Reading ozone nonattainment area. EPA is also proposing to disapprove the redesignation request and SIP revisions for the Reading area, if Pennsylvania does not correct the deficiencies. In addition, for the purposes of redesignation, EPA is proposing to approve Pennsylvania's legislative authority to adopt and implement a vehicle inspection and maintenance program. These actions are being taken under sections 107 and 110 of the Clean Air Act. Furthermore, EPA is proposing a change in its policy on redesignation requirements for ozone nonattainment areas in the Ozone Transport Region (OTR). The proposed policy change makes redesignation requirements for areas in the OTR consistent with

requirements for areas outside the OTR by interpreting meeting the requirements under section 184 of the Clean Air Act as not being a prerequisite for the purpose of redesignation. The policy does not affect duplicate requirements under other sections of the Act.

DATES: Comments must be received on or before November 12, 1996.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 566–2181, at the EPA Region III office address listed above, or via e-mail at pino.maria@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On November 12, 1993, the Commonwealth of Pennsylvania formally submitted a redesignation request for the Reading ozone nonattainment area. At the same time, the Commonwealth submitted a maintenance plan for the Reading area as a SIP revision. The maintenance plan was subsequently amended on January 13, 1994 and, again, on May 12, 1995. On November 12, 1992, Pennsylvania submitted its 1990 base year VOC, NOx, and CO inventories for all areas in the Commonwealth. On November 12, 1993, Pennsylvania included revisions to its 1990 base year inventories for the Reading area as part of the SIP revision submittal, along with the maintenance plan.

Background

The Reading area, which includes Berks County, is designated nonattainment for ozone and is classified as moderate (56 FR 56694). Monitored air quality data recorded in the Reading area first met the ozone National Ambient Air Quality Standard (NAAQS) during the three-year period 1989–1991, and continues to meet the NAAQS.

On July 19, 1995, EPA published a final rule (1) determining that the Reading area and the Pittsburgh-Beaver Valley area (the Pittsburgh area) had attained the ozone standard, and (2) waiving the Clean Air Act requirements for a 15% plan, an attainment demonstration, and contingency measures for these areas (60 FR 37015). This action also lifted sanctions imposed on the areas for failure to submit these requirements. EPA took this action pursuant to a May 10, 1995 policy that allows a waiver of these requirements for areas that show, through air quality monitoring data, that they meet the ozone standard. Subsequently, a lawsuit was filed against EPA on the application of this waiver policy.

A settlement agreement between EPA and the petitioners in the lawsuit (the Delaware Valley Citizens' Council for Clean Air, also known as the Clean Air Council) was signed on May 20, 1996, and a notice regarding it was published in the Federal Register on May 29, 1996 (61 FR 26903). By agreement with the petitioners, the Regional Administrator is to sign a Notice of Proposed Rulemaking on the Reading redesignation request and maintenance plan by September 30, 1996. In addition, the Regional Administrator is to sign the Final Rulemaking Notice by March 3, 1997.

Under section 107(d)(3)(E) of the Clean Air Act (the Act), the following five criteria must be met for an ozone nonattainment area to be redesignated to attainment:

1. The area must meet the ozone NAAQS.
2. The area must meet applicable requirements of section 110 and Part D.
3. The area must have a fully approved SIP under section 110(k) of the Act.
4. The area must show that its experienced improvement in air quality is due to permanent and enforceable measures.
5. The area must have a fully approved maintenance plan under section 175A of the Act, including contingency measures.

Policy Change for Redesignations—Section 184 Requirements

All areas in the Ozone Transport Region (OTR), both attainment and nonattainment, are subject to additional control requirements under section 184 for the purpose of reducing interstate transport of emissions that may contribute to downwind ozone nonattainment. The section 184 requirements are reasonably available control technology (RACT) for sources of volatile organic compounds (VOCs) with the potential to emit 50 tons per year (TPY) or more, RACT for sources of oxides of Nitrogen (NO_X) with the potential to emit 100 TPY or more, Part D new source review (NSR) for major sources of VOC and NO_X, enhanced vehicle inspection and maintenance (I/M), Stage II vapor recovery or a comparable measure, and any measures that are mandated by EPA under section 184(c) based on a petition by the Ozone Transport Commission (OTC). To date, only the OTC Low Emission Vehicle program (or acceptable equivalent) has been required under section 184(c) [60 FR 4712; December 19, 1994].

Some of the section 184 requirements duplicate requirements under other sections of the Act for certain classifications of nonattainment areas. For example, as a moderate nonattainment area, Reading is also subject to VOC RACT under section 182(b)(2) for sources with the potential to emit 100 TPY or more, Part D NSR for major sources of NO_X and NO_X RACT for sources with the potential to emit 100 TPY or more under section 182(f), and Part D NSR for major sources of VOC under sections 173 and 182(b)(5). Reading is also subject to basic I/M for moderate areas under section 182(b)(4). The EPA believes that, for purposes of redesignation, it is appropriate to consider the section 184 requirements separately from the requirements under other sections because the express purpose of the section 184 requirements is different. Section 184 requirements are region-wide requirements intended for the control of interstate transport of ozone pollution, whereas the similar moderate area requirements are linked with the particular nonattainment area designation and classification to address local air quality problems. These latter requirements for Reading are discussed below. (See ''Status of Moderate Area Requirements—Sections 173 and 182.'')

Although this redesignation request was submitted after the due date for several of the section 184 requirements, including NSR for sources of both VOCs and NO_x, RACT for sources of VOCs with the potential to emit between 50 and 100 TPY, and enhanced I/M, EPA believes it is reasonable and appropriate to interpret the section 184 requirements as not being applicable requirements for purposes of evaluating a redesignation request. The rationale is based on two factors. First, the requirement to submit SIP revisions for the section 184 requirements continues to apply to areas in the OTR after redesignation to attainment. Therefore, the State remains obligated to adopt NSR, RACT, and I/M even after redesignation and would risk sanctions

for failure to do so. While redesignation of an area to attainment enables the area to avoid further compliance with the requirements of section 110 and part D that are linked with an area's nonattainment status, the section 184 requirements apply to both nonattainment and maintenance (attainment) areas. Second, the section 184 control measures are region-wide requirements and do not apply to Reading by virtue of the area's designation and classification. Rather, the section 184 measures are required in Reading because Reading is located in the OTR. The purpose of these measures is not to address air quality in the designated Reading nonattainment area, but to reduce regional emissions in the OTR. Where the Act has deemed the same controls needed as part of a strategy to reduce emissions in certain nonattainment areas, those control measures are specifically required for those areas under different sections of the Act. It is these latter requirements that are linked with a particular nonattainment area's designation and classification that EPA believes are the relevant measures to evaluate in reviewing a redesignation request.

Therefore, with this notice, EPA is proposing to modify its policy regarding the interpretation of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing an ozone redesignation request. Under this new policy, for the reasons just discussed, EPA believes that the ozone redesignation requests for areas in the OTR may be approved notwithstanding the lack of fully approved section 184 requirements. Based on this interpretation, EPA is proceeding to propose approval of the Reading redesignation request despite the lack of SIP approved NSR, enhanced I/M, and RACT for VOC sources with the potential to emit between 50 and 100 TPY. Redesignation to attainment will not remove the requirement for Pennsylvania to adopt and implement all of these section 184 measures in the Reading area. It should be noted that Pennsylvania has submitted its NSR and I/M programs for the Reading area. These submittals are the subject of separate rulemaking actions.

This new policy is consistent with, and an extension of, EPA's existing redesignation policies regarding conformity and oxygenated fuels requirements. Transportation and general conformity rules, required under section 176, apply to both nonattainment and maintenance areas. Just as with the section 184 requirements, States remain obligated to adopt and implement conformity rules even after redesignation to attainment. Primarily for this reason, EPA has previously interpreted the conformity requirements as not being applicable requirements for purposes of evaluating redesignation requests (60 FR 62748; December 7, 1995).

Under section 211(m), oxygenated fuels programs are required in moderate and serious carbon monoxide nonattainment areas with design values of 9.5 parts per million (ppm) or greater. The oxygenated fuels program must be applied throughout a consolidated metropolitan statistical area (CMSA) or metropolitan statistical area (MSA), even if the nonattainment area boundaries do not encompass the entire CMSA. Previously, a situation occurred where several not-classified carbon monoxide (CO) nonattainment areas were located in the CMSA of a moderate CO area whose design value triggered the oxygenated fuels requirement. Therefore, the not-classified areas were required to sell oxygenated fuels although it was not a requirement linked specifically with the not-classified areas' designation, classification and design value. In this case, for purposes of evaluating a redesignation request, EPA interpreted the oxygenated fuels program as not being an applicable requirement for the not-classified areas because the State would still be obligated to adopt and implement the oxygenated fuels program in the areas after redesignation (due to the continuing moderate area requirement) and because the areas were only required to implement an oxygenated fuels program by virtue of their location in the CMSA of a moderate CO area (60 FR 62741; December 7, 1995).

Status of OTR Requirements—Section 184

RACT: Under section 184, and excluding the requirements of section 182, RACT is required for VOC sources with the potential to emit between 50 and 100 TPY. On February 4, 1994, Pennsylvania submitted a ''generic'' RACT rule for NO_X sources and for VOC sources not covered by a control techniques guidelines (CTG) document, so-called non-CTG sources. This rule was effective in the Commonwealth on January 15, 1994. On February 28, 1994, EPA determined that the submittal was complete. This generic RACT rule does not contain any specific requirements for VOC sources, and contains only a control technology requirement for a class of NO_X sources and operation and maintenance requirements for several NO_X source categories. All other VOC and NO_X sources are required to submit case-by-case RACT determinations. Pennsylvania is in the process of submitting the case-by-case RACT determinations to EPA for approval into the Pennsylvania SIP.

NSR: On February 4, 1994, Pennsylvania submitted its final NSR regulations to EPA. On February 28, 1994, EPA determined that the submittal was complete. That submittal is the subject of a separate rulemaking action, currently being prepared by EP.

I/M: Under the November 28, 1995 National Highway System Designation Act, Pennsylvania submitted an OTR low-enhanced program on March 22, 1996. On September 13, 1996, Regional Administrator W. Michael McCabe signed a Notice of Proposed Rulemaking, proposing conditional interim approval of Pennsylvania's enhanced I/M SIP.

EPA's Evaluation of Pennsylvania's Redesignation Request and Maintenance Plan for the Reading Area

Criterion 1: The area must meet the ozone NAAQS.

EPA's Evaluation: The area has met the ozone standard since 1991, considering data for the three-year period 1989–1991. The area continues to meet the ozone standard.

Criterion 2: The area must meet applicable requirements of section 110 and Part D.

EPA's Evaluation: EPA's redesignation policy requires an area to meet all requirements in section 110 and Part D of the Clean Air Act that were due prior to the state's submittal of the redesignation request. Pennsylvania submitted the redesignation request for the Reading area on 11/12/93. Therefore, all section 110 and Part D requirements that were due before 11/12/93, other than those required under sections 176 and 184, are applicable requirements for the purposes of evaluating the redesignation request for the Reading area. As explained above, EPA is proposing, in this notice, to modify its previous policy regarding whether the requirements of section 184 of the Act are applicable requirements for the purposes of evaluating a redesignation request.

Status of Moderate Area Requirements—Sections 173 and 182

RACT: Under section 182 RACT is required for sources of VOC and NO_X with the potential to emit 100 TPY or more. As stated above, Pennsylvania submitted a ''generic'' RACT rule to EPA as a SIP revision on February 4, 1994. This rule applies to NO_X sources and non-CTG VOC sources. This generic RACT rule does not contain any specific

emission limitation. All VOC and NO_X sources are required to submit case-by-case RACT proposals to Pennsylvania, which, in turn, submits its RACT determinations to EPA as SIP revisions. Pennsylvania is in the process of submitting the case-by-case RACT determinations to EPA for approval into the Pennsylvania SIP.

In order for the Reading area to meet this criterion, Pennsylvania must submit complete and approvable RACT determinations for all applicable sources (all VOC and NO_X sources with the potential to emit 100 TPY or more in the Reading area) to EPA as SIP revisions, and EPA must approve these RACT determinations into the SIP before, or at the same time as, EPA completes final rulemaking on the redesignation request. Pennsylvania is in the process of submitting the required RACTs to EPA as SIP revisions.

NSR: On February 4, 1994, Pennsylvania submitted its final NSR regulations to EPA. EPA determined that the submittal was complete on February 28, 1994, but has not completed rulemaking on the NSR SIP. However, according to EPA's October 14, 1994 policy memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled *Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,* areas may be redesignated to attainment without a fully approved part D NSR program, as long as the area does not rely on NSR for maintenance. The Reading redesignation request does not rely on NSR for maintenance.

I/M: Under section 182, moderate areas are required to adopt and implement a basic I/M program. However, according to EPA's September 17, 1993 policy memorandum from Michael H. Shapiro, Assistant Administrator for Air and Radiation, entitled *State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standard (NAAQS) on or after November 15, 1992,* areas may be redesignated to attainment without a fully adopted I/M program, as long as (1) the area does not rely on I/M for maintenance, (2) the area has legislative authority for a basic I/M program, (3) basic I/M is included in the maintenance plan as a contingency measure, and (4) the maintenance plan includes an enforceable schedule and commitment for adopting a basic I/M program upon a specific and appropriate trigger.

As stated above, Pennsylvania submitted an OTR low-enhanced program on March 22, 1996, under the National Highway Act. On September 13, 1996, Regional Administrator W. Michael McCabe signed a Notice of Proposed Rulemaking, proposing conditional interim approval of Pennsylvania's enhanced I/M SIP. This submittal contains legislative authority for an OTR low-enhanced I/M program, as well as a schedule for implementation of the program.

Pursuant to the so called I/M redesignation rule, EPA's January 5, 1995 Federal Register action, *Inspection/Maintenance Program Requirements—Provisions for Redesignation* (60 FR 1735), Pennsylvania's list of contingency measures for the Reading area must include basic I/M, in the event that the enhanced I/M requirement under section 184 is not implemented. The contingency plan must also contain a schedule for implementation of a basic I/M program that complies with 40 CFR 51.372(c)(4). This schedule must be triggered when Pennsylvania chooses to implement basic I/M as a contingency measure.

Base Year Emission Inventories: On November 12, 1992, Pennsylvania submitted 1990 VOC, NO_X, and carbon monoxide (CO) base year inventories for all areas in the Commonwealth. With the redesignation request, Pennsylvania submitted summary updates to its 1990 base year inventories for the Reading area, which supersede Pennsylvania's 1992 submittal. The 1990 base year emissions summaries included in the redesignation request are different from those in the 1990 base year inventories submitted by Pennsylvania on November 12, 1992.

Pennsylvania must submit adequate technical justification to support the changes in the inventories, including sample calculations for point, area, and mobile sources, and mobile source emissions modeling sample runs.

Criterion 3: The area must have a fully approved SIP under section 110(k) of the Act.

EPA's Evaluation: In order to meet this criterion, all applicable SIP elements must be approved into Pennsylvania's SIP for the Reading area. All applicable requirements, other than RACT and the 1990 VOC, NO_X, and CO base year inventories, have been approved into the Pennsylvania SIP.

RACT: As stated above, in EPA's evaluation of criterion 2, Pennsylvania must submit complete and approvable RACT determinations for all applicable sources (all NO_X and non-CTG VOC sources with the potential to emit 100 TPY or more in the Reading area) to EPA as SIP revisions, and EPA must approve these RACT determinations into the SIP before, or at the same time as, EPA completes final rulemaking on the redesignation request. As stated above, Pennsylvania is in the process of submitting RACT SIP revisions for applicable NO_X and VOC sources, and must complete these submissions for final approval of this redesignation request.

1990 Base Year Emission Inventories: As stated above, in EPA's evaluation of criterion 2, Pennsylvania must provide adequate technical justification to support the 1990 VOC, NO_X, and CO base year inventories for Reading, submitted on November 12, 1992, and updated on November 12, 1993.

Other Moderate Area Requirements: SIP revisions for VOC RACT Fix-ups, VOC RACT Catch-ups (excluding non-CTG VOC RACT), and emission statements have been approved into the Pennsylvania SIP. As stated above, in EPA's evaluation of criterion 2, basic I/M and NSR are no longer applicable for redesignation purposes. Furthermore, EPA has previously interpreted the transportation and general conformity requirements as not being applicable for purposes of evaluating redesignation requests (60 FR 62748; December 7, 1995). Finally, because Pennsylvania submitted the Reading redesignation request prior to the due date for the 15% plan, attainment demonstration, and contingency measure requirements, these requirements are not applicable for the purpose of evaluating this redesignation request. Moreover, pursuant to EPA's May 10, 1995 waiver policy, EPA's July 19, 1995 action (60 FR 37015) waived these requirements for the Reading area.

Criterion 4: The area must show that its experienced improvement in air quality is due to permanent and enforceable measures.

EPA's Evaluation: The redesignation request has shown that, through fully adopted and implemented, permanent and enforceable state and federal measures, the area's air quality has improved.

Criterion 5: The area must have a fully approved maintenance plan under section 175A of the Act, including contingency measures.

EPA's Evaluation: The submitted maintenance plan has several deficiencies.

(1) The maintenance plan must show continued maintenance of the standard for at least ten years after the area is redesignated. To that end, EPA requires states to include emission inventories in their maintenance plans for a year that

is 10 years after the state anticipates EPA will approve their redesignation request. Furthermore, EPA requires that states project emissions for an interim year, between the year the area is redesignated and the end year (10 years after redesignation). Pennsylvania must project emissions out to at least 2007.

The maintenance plan that Pennsylvania submitted on November 12, 1993, and amended on January 13, 1994 and, again, on May 12, 1995 projects maintenance up to the year 2004, and includes interim year emission projection for 1996. However, on September 27, 1996, Pennsylvania supplemented the Reading maintenance plan with preliminary inventories for 2007. Pennsylvania must submit adequate technical support to justify these new inventories. Additionally, Pennsylvania can no longer use 1996 as the interim year, because EPA will not complete final rulemaking on this redesignation request and maintenance plan until 1997. However, Pennsylvania can use the 2004 inventories, which have already been submitted, as the interim year inventories.

(2) More technical support is needed in order for EPA to evaluate the projected emissions inventories, for 2004 and 2007, submitted with the maintenance plan. The maintenance plan must show that only credible measures (fully adopted and SIP approved state measures, and certain federal measures) are used to demonstrate maintenance. Mobile source emissions modeling must be provided in order to determine if those inventories were projected correctly, taking emission reduction credit only for measures that are fully adopted and approved into the SIP. In addition, Pennsylvania must provide growth factors (not surrogates), sample calculations for point, area, and mobile sources.

(3) The contingency measure provided in the maintenance plan is inadequate. The maintenance plan must provide for contingency measures to promptly correct any violation of the ozone NAAQS that occurs after the area is redesignated. The plan must contain a list of measures to be adopted and a schedule and procedures for adoption and implementation. The plan must also identify specific triggers used to determine when the contingency measures need to be implemented. Pennsylvania is in the process of revising the maintenance plan for the Reading area to meet this criterion.

EPA's Evaluation of Pennsylvania's 1990 Base Year Inventory for the Reading Area

On November 12, 1992, Pennsylvania submitted the 1990 base year inventories for VOC, NO_X and CO for all areas in the Commonwealth, including the Reading area. Pennsylvania amended these inventories for the Reading area when it submitted its redesignation request and maintenance plan for the area, on November 12, 1993. However, only summaries of the updated inventory were submitted with the redesignation request.

The 1990 base year emissions summaries included in the redesignation request are different from those in the 1990 base year inventory submitted by Pennsylvania on November 12, 1992. Pennsylvania must submit adequate technical justification to support the changes in the inventories, including sample calculations for point, area, and mobile sources, and mobile source emissions modeling sample runs.

A more detailed evaluation of Pennsylvania's redesignation request, maintenance plan, and 1990 base year emission inventories for the Reading area can be found in the Technical Support Document (TSD) prepared by EPA for this rulemaking action. The TSD and other materials related to this action are available for public inspection at the EPA Regional office listed in the **ADDRESSES** section of this notice.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Proposed Action

EPA is proposing to approve Pennsylvania's request for redesignation of the Reading area, and the accompanying maintenance plan, which was originally submitted on November 12, 1993, and amended on January 13, 1994 and May 12, 1995, contingent upon Pennsylvania's correction of all deficiencies contained in the request and maintenance plan. EPA is also proposing to approve the 1990 base year VOC, NO_X, and CO inventories for the Reading ozone nonattainment area, which were originally submitted on November 12, 1992, and revised on November 12, 1993, contingent upon Pennsylvania's correction of all deficiencies contained in those inventories. At the same time, EPA is proposing to disapprove the redesignation request, maintenance plan, and 1990 base year emission inventories for the Reading area if Pennsylvania does not correct the deficiencies. In addition, for purposes of satisfying the I/M redesignation rule of January 1995, EPA is proposing approval of Pennsylvania's legislative authority to adopt and implement an I/M program. Finally, EPA is proposing to change its policy on redesignation requirements for ozone nonattainment areas in the Ozone Transport Region (OTR). The policy change makes redesignation requirements for areas in the OTR consistent with requirements for areas outside the OTR by interpreting requirements under section 184 of the Clean Air Act as not being applicable for the purpose of redesignation.

In order to correct the deficiencies that exist in the redesignation request, maintenance plan, and 1990 base year emission inventories, Pennsylvania must submit the following to EPA:

(1) Adequate technical support to justify the projected emission inventories (2007 and 2004), including growth factors (not surrogates), sample calculations for point, area, and mobile sources, and mobile source emissions modeling sample runs;

(2) Complete and approvable RACT SIP revisions for all applicable sources (all VOC and NO_X sources with the potential to emit 100 TPY or more in the Reading area);

(3) A declaration that all required RACTs have been submitted;

(4) SIP revisions to the Reading area maintenance plan so that it provides adequate contingency measures. The plan must contain a list of measures to be adopted and a schedule and procedures for adoption and implementation. The plan must also identify specific triggers used to determine when the contingency measures need to be implemented and a schedule for implementation of the contingencies in the event that they are implemented. The list of contingency measures must include basic I/M, in the event that enhanced I/M requirement under section 184 is not implemented. The plan must contain a schedule for implementation of a basic I/M program that complies with 40 CFR 51.372(c)(4). This schedule will be triggered when Pennsylvania chooses to implement basic I/M as a contingency measure; and

(5) Technical support to justify the 1990 base year emission inventories submitted in the redesignation request. This support must include sample

calculations for point, area, and mobile sources, a list of all point sources, and mobile source emissions modeling.

As stated above, the Regional Administrator is to sign a final rulemaking action on the Reading redesignation request and maintenance plan by March 3, 1997, according to an agreement between EPA and the Clean Air Council. The revisions listed above must be submitted to EPA in enough time for EPA to evaluate their adequacy and, where necessary, complete separate rulemaking actions on the submittals before March 1997. Therefore, EPA has determined that Pennsylvania needs to submit the required revisions by February 3, 1997, in time for EPA to take final action by March 3, 1997.

Pennsylvania is in the process of addressing all of the deficiencies listed above. EPA believes that Pennsylvania will be able to meet the February 3, 1997 deadline stated above. In addition, EPA believes that it will be able to complete rulemaking on Pennsylvania's submittals, as long as Pennsylvania works closely with EPA to develop the required revisions.

If EPA were to take final action to disapprove the maintenance plan, the Reading area will no longer be able to demonstrate conformity to the submitted maintenance plan pursuant to the transportation conformity requirements in 40 CFR Part 51, section 51.448(i). Since the submitted maintenance plan budget will no longer apply for transportation conformity purposes, the build/no-build and less-than-90 tests will apply.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this proposed Federal SIP approval does not impose any new requirements, the Regional Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

EPA's proposed disapproval of the State request under Section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's proposed disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this proposed disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements and impose any new Federal requirements.

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Regional Administrator certifies that, in the event that EPA approves Pennsylvania's redesignation request for the Reading area, the approval will not affect a substantial number of small entities.

In the event that EPA denies Pennsylvania's redesignation request under section 107(d)(3)(E) of the CAA, this denial would not affect any existing requirements applicable to small entities nor does it impose new requirements. The area would retain its current designation status and would continue to be subject to the same statutory requirements. To the extent that the area must adopt regulations, based on its nonattainment status, EPA will review the effect of those actions on small entities at the time the State submits those regulations. Therefore, the Regional Administrator certifies that the disapproval of the redesignation request will not affect a substantial number of small entities.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this proposed approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

EPA has also determined that the proposed alternative disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The Regional Administrator's decision to approve or disapprove Pennsylvania's redesignation request for the Reading ozone nonattainment area, the associated maintenance plan, and the 1990 VOC, NO_x, and CO base year

inventories for the area will be based on whether they meet the requirements of section 110(a)(2)(A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 30, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96–25894 Filed 10–9–96; 8:45 am]

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40 CFR Part 52

[UT–NHA–01; FRL–5629–1]

Approval and Promulgation of Air Quality Implementation Plans; Utah: Vehicle Inspection and Maintenance Program for Utah County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim rule.

SUMMARY: EPA is proposing interim approval of a State Implementation Plan (SIP) revision submitted by the State of Utah. This revision establishes and requires the implementation of an improved inspection and maintenance (I/M) program in the Provo-Orem Metropolitan Statistical Area (Utah County) which claims ''full credit'' for a test-and-repair network. The intended effect of this action is to propose interim approval of an I/M program proposed by the State, based upon the State/County's good faith estimate, which asserts that the State/County's network design credits are appropriate and the revision is otherwise in compliance with the Clean Air Act (CAA). This action is being taken under section 348 of the National Highway System Designation Act of 1995 (NHSDA) and section 110 of the CAA.

EPA proposes that the State/County's program must start no later than November 15, 1997. EPA also proposes that if the State/County fails to start its program as defined in this notice on this schedule, the approval granted under the provisions of the NHSDA will convert to a disapproval after a finding letter is sent to the State.

DATES: Comments must be received on or before November 12, 1996.

ADDRESSES: Comments may be mailed to Richard R. Long, Director, Air Programs, USEPA Region VIII (P2–A), 999 18th Street—Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the above address. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Scott P. Lee, at (303) 312–6736 or via e-mail at lee.scott@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region VIII address above.

I. Background

A. Impact of the National Highway System Designation Act on the Design and Implementation of Inspection and Maintenance Programs Under the Clean Air Act

The National Highway System Designation Act of 1995 (NHSDA) establishes two key changes to the I/M rule requirements previously developed by EPA. Under the NHSDA, EPA cannot require states to adopt or implement centralized, test-only IM240 enhanced vehicle inspection and maintenance programs as a means of compliance with section 182, 184 or 187 of the CAA. Also under the NHSDA, EPA cannot disapprove a State SIP revision, nor apply an automatic discount to a State SIP revision under section 182, 184 or 187 of the CAA, because the I/M program in such plan revision is decentralized, or a test-and-repair program. Accordingly, the so-called ''50% credit discount'' that was established by the EPA's I/M Program Requirements Final Rule, (published November 5, 1992, and herein referred to as the I/M Rule) has been effectively replaced with a presumptive equivalency criteria, which places the emission reductions credits for decentralized networks on par with credit assumptions for centralized networks, based upon a state's good faith estimate of reductions as provided by the NHSDA and explained below in this section.

EPA's I/M Rule established many other criteria for states unrelated to network design or test type to use in designing I/M programs. All other elements of the I/M Rule, and the statutory requirements established in the CAA continue to be required of those states submitting I/M SIP revisions under the NHSDA, and the NHSDA specifically requires that these submittals must otherwise comply in all respects with the I/M Rule and the CAA.

The NHSDA also requires states to swiftly develop, submit, and begin implementation of these I/M programs, since the anticipated start-up dates developed under the CAA and EPA's rules have already been delayed. In requiring states to submit these plans within 120 days of the NHSDA passage, and in allowing these states to submit proposed regulations for this plan (which can be finalized and submitted to EPA during the interim period) it is clear that Congress intended for states to begin testing vehicles as soon as practicable, now that the decentralized credit issue has been clarified and directly addressed by the NHSDA.

Submission criteria described under the NHSDA allows for a State to submit proposed regulations for this interim program, provided that the State has all of the statutory authority necessary to carry out the program. Also, in proposing the interim credits for this program, states are required to make good faith estimates regarding the performance of their I/M program. Since these estimates are expected to be difficult to quantify, the state need only provide that the proposed credits claimed for the submission have a basis in fact. A good faith estimate of a State's program may be an estimate that is based on any of the following: the performance of any previous I/M program; the results of remote sensing or other roadside testing techniques; fleet and vehicle miles traveled (VMT) profiles; demographic studies; or other evidence which has relevance to the effectiveness or emissions reducing capabilities of an I/M program.

This action is being taken under the authority of both the NHSDA and section 110 of the CAA. Section 348 of the NHSDA expressly directs EPA to issue this interim approval. At that time, the Conference Report on section 348 of the NHSDA states that it is expected that the proposed credits claimed by the State in its submittal, and the emissions reductions demonstrated through the program data may not match exactly. Therefore, the Conference Report suggests that EPA use the program data to appropriately adjust these credits on a program basis as demonstrated by the program data.

B. Interim Approvals Under the NHSDA

The NHSDA directs EPA to grant interim approval for a period of 18 months to approvable I/M submittals under this Act. This Act also directs EPA and the states to review the interim program results at the end of 18 months, and to make a determination as to the effectiveness of the interim program. Following this demonstration, EPA will adjust any credit claims made by the state in its good faith effort to reflect the